



## **HB224 HD1 Exempt Behavioral Health for Certificate of Need (CON)**

COMMITTEE ON FINANCE:

- Rep. Sylvia Luke, Chair; Rep. Ty Cullen, Vice Chair
- Tuesday, Feb. 23· 2021: 2:00 pm: Videoconference

### **Hawaii Substance Abuse Coalition Comments HB224 HD1:**

#### **Offer Recommendations:**

*ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 substance use disorder and co-occurring mental health disorder treatment and prevention agencies.*

Most states are reforming CON with new rules and guidelines and those that did exempt created new simplified rules. They legislated an approval processes that provided a limited function of oversight.

**After exempting CON without any new rules, several states experienced out of state providers coming into their state to provide substandard services for profit reasons while consumers suffered poor quality programming.**

**HSAC recommends that permitting rules be created to require that new substance use disorder and/or psychiatric residential services coming into the Hawai'i have national accreditation to ensure best practices.**

**Validating that national accreditation is in place is a simple administrative process that ensures accountability and certain required level of quality of care.**

Like most states, let's have a simplified process that still gives some assurances that consumers are protected. We appreciate the opportunity to provide testimony and are available for questions.



**Testimony to the House Committee on Finance  
Tuesday, February 23, 2021; 2:00 p.m.  
State Capitol, Conference Room 308  
Via Videoconference**

**RE: HOUSE BILL NO. 0224, HOUSE DRAFT 1, RELATING TO THE STATE PLANNING AND DEVELOPMENT AGENCY.**

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **COMMENTS** on House Bill No. 0224, House Draft 1, RELATING TO THE STATE PLANNING AND DEVELOPMENT AGENCY.

The bill, as received by your Committee, would:

- (1) Replace the State Health Planning and Development Agency (SHPDA) with an unnamed agency as the agency responsible for administering the State Health Planning and Development Special Fund (Special Fund)
- (2) Establish a cap of \$2,000,000 on the Special Fund and direct that all funds in excess of the cap on June 30 of each succeeding year lapse to the General Fund;
- (3) Establish an unspecified fee for a public hearing whenever a request is made of the State Health Planning and Development Agency (SHPDA) to reconsider a previous decision;
- (4) Establish an administrative penalty not to exceed an unspecified amount for failure to comply with an approved certificate of need;
- (5) Exempt psychiatric facilities, special treatment facilities, and chronic renal dialysis services from the certificate of need process;
- (6) Appropriate unspecified amounts of Special Funds for fiscal years 2021-2022, and 2022-2023, respectively, for the hiring of full-time equivalent permanent positions within SHPDA; and

- (7) State that an unspecified position previously funded by general funds be funded from the Special Fund and appropriate an unspecified amount of funds from the Special Fund for this purpose.

The bill would take effect on July 1, 2060, to facilitate continued discussion on this issue.

By way of background, the HPCA represents Hawaii Federally-Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

Chapter 323D, Hawaii Revised Statutes (HRS), the Health Planning and Resources Development and Health Care Cost Control Law, was enacted to promote accessibility for all the people of the State to quality health care services at reasonable costs. [See, Section 323D-1, HRS.] Among other things, this law establishes the State Health Planning and Development Agency [See, Section 323D-11, HRS.], Subarea Health Planning Councils [See, Chapter 323D, Part III, HRS.], and a certificate of need process that is intended to ensure that any new facility or expansion of an existing facility be evaluated on its probable impact on health care costs. [See, Section 323D-44, HRS.]

This law makes explicit that:

*" . . . No person, public or private, nonprofit or for profit, shall:*

- (1) Construct, expand, alter, convert, develop, initiate, or modify a health care facility or health care services in the State that requires a total capital expenditure in excess of the expenditure minimum;*
- (2) Substantially modify or increase the scope or type of health service rendered; or*
- (3) Increase, decrease, or change the class of usage of the bed complement of a health care facility or relocate beds from one physical facility or site to another;*

*unless a certificate of need therefor has first been issued by the state agency." [See, Section 323D-43, HRS.]*

**Testimony on House Bill No. 0224, House Draft 1**  
**Tuesday, February 23, 2021; 2:00 p.m.**  
**Page 3**

The HPCA asserts that Chapter 323D, HRS, is sound public policy because it requires the State to evaluate the need for health care within an area based on the financial impact to residents and communities. We question, however, whether exempting psychiatric facilities, special treatment facilities, and chronic renal dialysis services from the certificate of need process will make it more difficult for investors and developers to consider entering into underserved areas.

Would an investor be willing to invest in a project if a competing facility could be established within the same geographical area at any time? Enacting these exemptions might actually hamper or prevent the expansion of services within underserved communities.

The HPCA is especially concerned on the impact this bill may have on certain rural communities that are already being serviced by health care providers. If totally unregulated expansion is allowed without consideration of the health care providers who are and have been servicing rural communities for generations, those providers could be forced out of the marketplace. And how will that affect the patients in those areas who have been accustomed to seeing their family provider for decades if the provider will not be around anymore? What would Grandma say if she can't see Dr. Blank anymore (who she has seen regularly for the past forty years?). Will Grandma trust a new provider?

While we are not opposed to this bill at this time, we are very concerned that the enactment of this measure will directly impact our member FQHCs, our employees, and our patients. For these reasons, we caution this Committee and urge their careful consideration of the policy implications that this bill will have.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or [eabe@hawaiipca.net](mailto:eabe@hawaiipca.net).

**Testimony from Jaimie Cavanaugh on behalf of the Institute for Justice  
In Support of HB 224.HD1**

My name is Jaimie Cavanaugh. On behalf of the Institute for Justice (IJ), I'm providing the following testimony in support of HB 224.HD1. Since 1991, IJ has been fighting to rid the nation of certificate of need (CON) laws because of their harmful consequences. CON laws deliver little more than government backed monopolies to those lucky enough to get a certificate. IJ has been successful at removing CON laws. Federal courts have struck down CON laws and state houses have removed these barriers to enter markets. To further IJ's goal of getting rid of CON laws, this summer I authored a report comparing medical CON laws around the country.<sup>1</sup>

My testimony will make two points. First, I will briefly discuss some of the relevant findings of my 2020 report that show CON laws should be repealed. Second, I will show that federal agencies agree that CON laws should be repealed.

**First**, approximately 40% of the nation's population live in states without CON programs—states such as California, New Hampshire, Texas, or Idaho.<sup>2</sup> These are a mix of populous and rural states, red and blue. The healthcare markets in these states have not deteriorated without CON laws. Sadly, however, 38 states and the District of Columbia maintain CON programs, which reduce access to needed healthcare facilities and services.<sup>3</sup>

The COVID-19 pandemic has laid bare the existing problems with CON laws. Proponents of CON laws often argue they increase access to care and reduce healthcare costs. If that were true, the nation would have needed more CON laws to fight COVID-19, not fewer. Yet, in response to the pandemic, 25 of the 39 CON jurisdictions suspended or loosed their CON requirements.<sup>4</sup> In other words, CON programs were preventing healthcare providers from responding to the needs of the public. As a result, states were forced to quickly suspend their CON programs in 2020 to increase access to healthcare.

Outside pandemics, CON laws harm patients by limiting their healthcare options. CON laws force providers to jump through hoops just to get the chance to offer a new service or open a new facility. This entails filling out lengthy applications, paying large application fees, undergoing the hearing process that amounts to a full-blown trial, and surviving a competitor's veto.<sup>5</sup> And after all of that, most applications are denied, leaving patients with fewer options. As a result, incumbent providers have no incentive to innovate their services or lower their prices. As one might imagine, CON laws lead to increased costs and decreased availability of services. Worse, Hawaii is one of the states that regulates the most categories of CONs.<sup>6</sup> Therefore, repealing some of Hawaii's CONs, as this bill proposes, is a step in the right direction toward larger reform.

**Second**, the government shouldn't be in the business of picking winners and losers in the marketplace. The state shouldn't say one dialysis provider can operate but four others equally qualified providers cannot. This is not just my conclusion. Federal agencies have concluded the same in their review of healthcare CONs, finding as follows:

- In 1988, an FTC report found “no evidence that CON programs have led to the resource savings they were designed to promote, but rather indicates that reliance on CON review may raise [] costs.”<sup>7</sup>
- In 2004, a major report on healthcare by the FTC & DOJ concluded that “[t]he Agencies believe that CON programs are generally not successful in containing health care costs and that they can pose anticompetitive risks. As noted above, CON programs risk entrenching oligopolists and eroding consumer welfare.”<sup>8</sup>
- In 2015, the FTC & DOJ issued a joint statement: “[I]t is now apparent that CON laws can prevent the efficient functioning of health care markets in several ways . . . . First, CON laws create barriers to entry and expansion, limit consumer choice, and stifle innovation. Second, incumbent firms seeking to thwart or delay entry by new competitors may use CON laws to achieve that end. . . . Finally, the evidence to date does not suggest that CON laws have generally succeeded in controlling costs or improving quality.”<sup>9</sup>

In light of the foregoing, the Institute for Justice fully supports HB 224.HD1 and respectfully requests a yes vote on this bill.

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<sup>1</sup> Jaimie Cavanaugh, *et al.*, *Conning the Competition* (2020), available at <https://ij.org/report/conning-the-competition/>

<sup>2</sup> Cavanaugh, *supra* note 1 at 8.

<sup>3</sup> *See, e.g.*, Cavanaugh, *supra* note 1 “Origin of CON Laws” at 5.

<sup>4</sup> Cavanaugh, *supra* note 1 at 6.

<sup>5</sup> *See* Cavanaugh, *supra* note 1 at 49.

<sup>6</sup> Cavanaugh, *supra* note 1 at 9.

<sup>7</sup> FTC, *The Effect of State Certificate-of-Need Laws On Hospital Costs: An Economic Policy Analysis* iv (1988).

<sup>8</sup> FTC & DOJ, *Improving Health Care: A Dose of Competition* ch. 8 p. 6 (2004).

<sup>9</sup> Joint Statement of the FTC and the Antitrust Division of the DOJ to the Va. Certificate of Public Need Work Group (2015).



February 22, 2021

Representative Sylvia Luke, Chair  
House Committee on Finance

**Hearing, Tuesday February 23, 2021  
Testimony in Support of HB224 HD1**

Dear Representative Luke and Members of the House Committee on Finance,

Thank you for the opportunity to submit testimony in support of bill HB224 HD1 because it enables State Health Planning & Development Agency (SHPDA) to support itself and perform its statutory functions.

My name is Emelyn S. Kim and I have a consulting business, Elder Care 808 that provides counseling and assistance to caregivers of older adults. Also, I am the Chair of the Health Planning Council, West Oahu Subarea (WOSAC). As a volunteer, I believe citizen involvement in government is integral part of a healthy democracy. One of my duties and responsibilities is to assist in the review of the Certificate of Need (CON) applications from service providers and make recommendations as to whether these proposals meet the certificate of need criteria of the Department of Health (DOH).

I support this bill because it proposes that SHPDA be allowed to use special funds for personnel expenditures and increases SHPDA's special funds by adding fees and fines for violations of the CON requirements. Also, SHPDA should be allowed to continue to administer the special fund since it is the agency that uses it.

Respectfully submitted,

A handwritten signature in cursive script that reads "Emelyn S. Kim".

Emelyn S. Kim, MS

Consultant

Elder Care 808

(808) 754-1599

emelyn@eldercare808.com

February \_\_\_\_, 2021

TO: Representative Sylvia Luke, Chair  
Representative Ty Cullen, Vice-Chair  
Members of the House Finance Committee

RE: Testimony in **SUPPORT** of House Bill (HB) 224, House Draft (HD) 1  
Exempts psychiatric services, special treatment facilities, and chronic renal dialysis services from the certificate of need requirements. Authorizes administrative penalties for persons who do not comply with an approved certificate of need. Appropriates funds from the health planning development fund

Chair Sylvia Luke and Vice-Chair Ty Cullen and Members of the Committee:

Satellite Healthcare is a not-for-profit dialysis provider founded in January 1974 by a Stanford nephrologist. Headquartered in Silicon Valley, Satellite Healthcare serves more than 8,000 patients at its more than 80 dialysis centers in California, New Jersey, Texas and Tennessee. We look forward to the opportunity to deliver comprehensive services to dialysis patients in the State of Hawaii.

Satellite Healthcare has partnered with Kuakini Health System, The Queen's Medical Center and HMSA in creating a joint venture to solve the longstanding challenge of caring for high acuity patients who receive dialysis treatment in the hospital because of life-threatening or serious medical needs. The organizations will work collaboratively to bring care for these patients to an outpatient setting in Honolulu that will include in-center dialysis, a next generation high acuity program and home dialysis training.

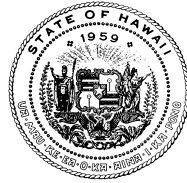
Satellite Healthcare supports HB224, HD1. HB224, HD1 provides an exemption to chronic renal dialysis services as defined in section 11-186-3 (HAR) from the certificate of need process. This exemption will allow organizations to move quickly establishing dialysis services, and increase access to many waiting patients in our community.

The number of outpatient dialysis patients is continuing to grow in the state of Hawaii and the increase in the new end-stage renal disease (ESRD) patients has left existing dialysis centers at or near capacity. The number of new diagnosed ESRD patient in the state jumped by thirty percent (30%) from 2012 to 2015. Recent publicly available information in 2017 estimates 3,482 ESRD patients total statewide, following a 5 percent (5%per year average increase from 2013. While there has been growth in the number of outpatient dialysis facilities over that time, the supply of dialysis stations is not keeping up with demand, especially as it relates to projections over the next five years.



As such, passage of this bill will help meet the growing need for more facilities and dialysis stations by allowing them to be established and starting operations more quickly.

Thank you for the opportunity to testify on this matter.



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on HB224**  
**RELATING TO THE STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.**

REP. SYLVIA LUKE, CHAIR  
HOUSE COMMITTEE ON FINANCE

Hearing Date: February 23, 2021      Room Number: N/A

1    **Department Testimony:** The Department of Health (DOH) supports Certificate of Need (CON)  
2    and comprehensive statewide health planning as an essential functions of state government to  
3    promote accessibility, quality, and sustainability.

4    The Governor's Executive Biennium Budget proposes the downsizing of the State Health  
5    Planning and Development Agency (SHPDA) and the transfer of CON resources to the  
6    Department of Health. The department recommends this measure move forward as a corollary to  
7    the state budget to assure functions of SHPDA persist regardless of its status as an attached  
8    agency.

9    Chapter 323D authorizes at least three important functions: Certificate of Need, comprehensive  
10    statewide planning, and the collection of health care administrative data, all of which must be  
11    preserved.

12    Certificate of Need

13    Similar to licensing and other regulatory functions discharged by DOH, CON is subject to  
14    administrative rules, public hearings, contested case rights, and oversight by the Legislature.  
15    The department recommends that if moved laterally, civil servants continue to operate CON as  
16    opposed to exempt or appointed employees to maintain objectivity, fairness, and fidelity to laws  
17    and rules. CON must remain data-driven and objective and DOH supports any amendments to  
18    assure and strengthen that model.

1 Comprehensive State Planning

2 The Health Services and Facilities Plan is a guiding document for both CON and health care  
3 services planning in Hawaii that addresses the health care needs of the State, including inpatient  
4 care, health care facilities, and special needs. The plan depicts the most economical and  
5 efficient system of care commensurate with adequate quality of care and includes standards for  
6 utilization of health care facilities and major medical equipment.

7 Regardless of SHPDA's status as an attached agency this role must also be preserved, but should  
8 be expanded to include more than health care assets like bed counts and clinics, and include or be  
9 informed by social determinants of health, health equity, and environmental justice. The last  
10 State Function Health Plan was published in 1989  
11 (<https://files.hawaii.gov/dbedt/op/docs/Health.pdf>) and may serve as a model for 21<sup>st</sup> century  
12 community health planning. The role of the State in this regard is to coordinate and prioritize  
13 with the private sector and to cooperate where there is mutual agreement, and not to establish a  
14 government-run health care system. The department is open to amendments to assure  
15 appropriate limits of government are applied to Hawaii's market-based health care system.

16 The COVID-19 pandemic is an example of how public health and health care must coordinate to  
17 address Hawaii's health priorities. For example, CON is required for new dialysis centers, for  
18 which there is a shortage due to the higher-than-national rates of diabetes, chronic kidney  
19 disease, and end-stage renal disease in Hawaii. A convergence of public health and health care  
20 planning may be a key strategy to reducing the disease burden such that existing dialysis  
21 resources should be sufficient. Although the state has no choice but to expand dialysis centers, it  
22 begs the question of how effective our community's response to diseases of lifestyle have been.

23 All Payer Claims Database

24 The All Payer Claims Database (APCD) is a central repository for state-funded health care  
25 administrative data and a partnership between DOH, SHPDA, the Department of Human  
26 Services, the University of Hawaii, and several other agencies authorized in 2018. The goal of

1 the APCD is to inform consumers and policymakers of the healthcare costs, population health,  
2 and healthcare system of Hawaii.

3 Program development is based on three phases:

- 4 • Phase I: limited dataset is accessed only by the assigned and approved SHPDA,  
5 MedQUEST Health Analytics staff, and/or the agencies' designee, PHIDC;
- 6 • Phase II: limited dataset subset of the data becomes available to select State Agency  
7 researchers who have undergone a review and certification process, which is still to be  
8 determined; and
- 9 • Phase III: subset of the data becomes available to external researchers who have  
10 undergone a review process, which is still to be determined.

11 The project is in Phase I as of February 2020 and it is critical that it remain free from disruption.  
12 Regardless of SHPDA's status as an attached agency, DOH strongly recommends that authority  
13 for the APCD remain in force either in chapter 321, chapter 346, or related statute.

14 The department supports the Governor's budget as drafted as a matter of Executive Branch  
15 policy, but requests the Legislature consider this measure to assure critical functions are  
16 maintained.

17 Thank you for the opportunity to testify.

18 **Offered Amendments:** N/A.

19

Dear Rep. Sylvia Luke and Rep. Ty Cullen,

My name is Ronald Bush, chair of the Kauai County Subarea Health Planning Council (KCSAC). I work for the Kauai Fire Department. I am in support of HB 224 HD.

I support bill HB 224 because it strengthens State Health Planning & Development Agency (SHPDA) by allowing it to use its special funds for personnel expenditures and also proposes additional fees and fines to increase the health planning and development special funds. However the administration of the special funds must be retained by SHPDA.

SHPDA was established by law and plays a very important role in ensuring that the people of Hawaii have access to quality health services at reasonable cost. Through SHPDA, the State is enabled to evaluate the need for health care within an area based on the financial impact to residents and communities, and through the Certificate of Need (CON) process, ensure that there is an effective mechanism to keep unscrupulous entities from entering into the state and providing care. The KCSAC is one of SHPDA's advisory bodies and through the years we have worked closely with SHPDA in the performance of its planning and CON functions, partnering with SHPDA in undertaking community health needs assessments and in reviewing CON applications.

Given the importance of, and the need for, the agency and its functions, it is imperative that it remains as an independent regulatory agency and not a mere program under the director of health to avoid any conflict of interest. It is also strongly recommended that SHPDA retains and continues to administer its special funds to support program and personnel expenditures.

Sincerely,

Ronald Bush  
Chair  
Kauai Subarea Health Planning Council

**HB-224-HD-1**

Submitted on: 2/22/2021 9:55:56 AM

Testimony for FIN on 2/23/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Speedy Bailey	AMR	Support	No

Comments:

This bill strengthens SHPDA by allowing additional fees, fines and development funds.



February 23, 2021

2:00 p.m.

VIA VIDEOCONFERENCE

Conference Room 308

**To: House Committee on Finance**

**Rep. Sylvia Luke, Chair**

**Rep. Ty J.K. Cullen, Vice Chair**

**From: Grassroot Institute of Hawaii**

**Joe Kent, Executive Vice President**

RE: HB224 HD1 — RELATING TO THE STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

***Comments Only***

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on HB224 HD1, which would exempt special treatment facilities, psychiatric services and chronic renal dialysis services from the state’s “certificate of need” requirements.

If enacted, this bill would take an important step toward addressing Hawaii’s ongoing difficulties with health care affordability and access. By creating exemptions to the certificate-of-need requirements for certain facilities, you would improve both the quality and affordability of care for many Hawaii residents.

While the intent of certificate-of-need laws may be to increase health care quality, research demonstrates that such laws actually decrease both quality and access.

According to a 2020 [study](#) from the Mercatus Center, Hawaii has the highest number of certificate-of-need restrictions in the country. The result of those restrictions is to make health care more expensive, limit access to care and lower the overall quality of care.

By comparing costs and outcomes in states with restrictive certificate-of-need laws and those without, the [Mercatus Center](#) determined that CON laws increase annual per capita health care spending in Hawaii by \$219 and reduce the number of health care facilities in the state by about 14.

The center also estimates that without certificate-of-need laws, deaths from post-surgery complications would decrease by about 5% and the proportion of patients who would rate their hospital highly (at least 9 out of 10) would increase by 4.7%.

A further consideration is that by imposing limitations on the construction of facilities intended to address substance abuse and psychiatric issues, certificates of need have the effect of limiting treatment options for Hawaii residents. The lack of alternatives and options has an effect on everything from care for the homeless to an effective criminal justice response for victims of drug abuse.

Due to certificate-of-need laws, many of Hawaii's problems with health care access and affordability are self-inflicted. By removing these restrictions — not only for the facilities contemplated in this bill, but for other facilities and services as well — we could go a long way toward improving health care in Hawaii.

Thank you for the opportunity to submit our comments.

Sincerely,

Joe Kent  
Executive Vice President, Grassroot Institute of Hawaii



February 23, 2021

TO: Representative Sylvia Luke, Chair  
Representative Ty Cullen, Vice-Chair  
Members of the House Finance Committee

RE: HB224 HD1 Relating to the State Health Planning and Development Agency – **SUPPORT**  
Exempts psychiatric services, special treatment facilities, and chronic renal dialysis services from the certificate of need requirements. Authorizes administrative penalties for persons who do not comply with an approved certificate of need. Appropriates funds from the health planning development fund

Satellite Healthcare is a not-for-profit dialysis provider founded in 1974 by a Stanford nephrologist. Headquartered in Silicon Valley, Satellite Healthcare serves more than 8,000 patients at its more than 80 dialysis centers in California, New Jersey, Tennessee and Texas. We look forward to the opportunity to deliver comprehensive services to dialysis patients in the State of Hawaii.

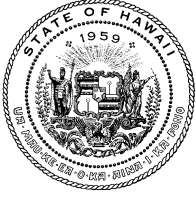
Satellite Healthcare has partnered with Kuakini Health System, The Queen's Medical Center and ISI, a subsidiary of HMSA in creating a joint venture to solve the longstanding challenge of caring for high acuity patients who receive dialysis treatment in the hospital because of life-threatening or serious medical needs. The organizations will work collaboratively to bring care for these patients to an outpatient setting in Honolulu that will include in-center dialysis, a next generation high acuity program, and home dialysis training.

Satellite Healthcare supports HB224, HD1. HB224, HD1 provides an exemption to chronic renal dialysis services as defined in section 11-186-3 (HAR) from the certificate of need process. This exemption will allow organizations to move quickly in establishing dialysis services, and increase access to many waiting patients in our community.

The number of outpatient dialysis patients is continuing to grow in the State of Hawaii and the increase in the new end-stage renal disease (ESRD) patients has left existing dialysis centers at or near capacity. The number of newly diagnosed ESRD patients in the State jumped by thirty percent (30%) from 2012 to 2015. Recent publicly available information in 2017 estimates 3,482 ESRD patients total statewide, following a five percent (5%) per year average increase from 2013. While there has been growth in the number of outpatient dialysis facilities over that time, the supply of dialysis stations is not keeping up with demand, especially as it relates to projections over the next five years.

As such, passage of this bill will help meet the growing need for more facilities and dialysis stations by allowing them to be established and starting operations more quickly.

Thank you for the opportunity to testify on this matter.



# STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

DAVID Y. IGE  
GOVERNOR OF HAWAII

ELIZABETH A. CHAR, M.D.  
DIRECTOR OF HEALTH

SERAFIN COLMENARES, JR., Ph.D., M.P.H.  
ADMINISTRATOR

1177 Alakea St., #402, Honolulu, HI 96813 Phone: 587-0788 Fax: 587-0783 www.shpda.org

## House Committee on Finance

### HB 224 HD 1, Relating to the State Health Planning and Development Agency

#### Testimony of Serafin Colmenares, Jr. SHPDA Administrator

Tuesday, February 23, 2021  
2:00 p.m., Videoconference

1 **Agency's Position:** The State Health Planning and Development Agency offers testimony in  
2 support of House Bill 224 HD 1, with comments.

3 **Fiscal Implications:** The bill allows the use of special funds for personnel expenditures and  
4 authorizes fees and fines.

5 **Purpose and Justification:** House Bill 244 HD 1 amends HRS Section 323D-12 by  
6 exempting certain facilities and services from the certificate of need requirements, authorizes a  
7 public hearing fee and fines for non-compliance with an approved certificate of need, allows  
8 the use of SHPDA's special funds for personnel expenditures and makes the corresponding  
9 appropriations.

10 Under HRS 323D-12.6, SHPDA's special fund was established "to assist in offsetting  
11 program expenses of the agency." SHPDA is currently allowed a special fund ceiling of  
12 \$114,000 annually for this purpose. General funds for the position of SHPDA administrator  
13 were taken away by the legislature following the departure on June 30, 2019 of the then  
14 SHPDA administrator. A new administrator was hired by July 1, 2020 but the funds for the  
15 position were not restored. In addition, additional cuts from its general fund are being  
16 proposed under the governor's budget. Given the reduction in its general funds, the use of the

1 special funds for personnel expenditures is needed by SHPDA. In addition, additional fees  
2 and fines are being proposed to increase the special funds, thereby enabling SHPDA to  
3 sustain funding for its staffing needs.

4 SHPDA supports this bill because it strengthens and enables SHPDA to support itself  
5 and perform its statutory functions. However, SHPDA would be more effective if it is allowed  
6 to continue administering the special fund since it is the agency that expends it. SHPDA  
7 therefore recommends that HRS 323D-12.6 (a) be worded according to its earlier version to  
8 read: “(a) There is established within the state treasury, *to be administered by the state health*  
9 *planning and development agency*, the state health planning and development special fund  
10 into which shall be deposited all moneys collected under this chapter.”

11 Thank you for this opportunity to testify.



**State of Hawaii House of Representatives**  
**Committee on Finance**  
**Hearing Date: February 23, 2021**

*RE: Opposition to HB 224 regarding the State Health Planning and Development Agency*

**Chair Luke, Vice Chair Cullen, and Members of the Committee:**

Liberty Dialysis-Hawaii/ Fresenius Medical Care North America (Liberty) works tenaciously every day to be a provider of sustainable, high-quality dialysis care at our 24 clinics that care for over 2,500 patients and their families. Liberty has been a long-time good corporate partner with the State of Hawaii and we write today in opposition to HB 224 which would exempt chronic renal dialysis services from Certificate of Need (CON).

The CON process is an essential regulatory forum that provides for the consideration of possible negative impacts to the larger health care delivery system. Without appropriate transparency, accountability and dialogue in this process there is the serious risk of healthcare service fragmentation which is particularly concerning for Hawaii given the size and geographic distribution of the population. Liberty has successfully utilized CON to grow and maintain a footprint in the State and we have grave concerns about the impact that the elimination of CON will have on our current facilities and patients. Liberty Dialysis-Hawaii has invested many resources in the State to ensure all dialysis patients have the same access to care. **If CON is removed there is a risk that operationally some clinics, particularly those in remote areas, will no longer be able to survive.**

Liberty Dialysis-Hawaii respectfully requests you **OPPOSE HB 224 or amend the measure in order to maintain CON in Hawaii for chronic renal dialysis services.**

Thank you for the opportunity to submit testimony. Should you have questions, please contact Maria Garcia, Sr. Director of State Government Affairs, Fresenius Medical Care North America Government Affairs, [maria.c.garcia@fmc-na.com](mailto:maria.c.garcia@fmc-na.com) ; (707)246-2773.